



DEPARTMENT OF CORRECTIONS

ADMINISTRATION

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March 21, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW Rm TW-A325
Washington, D C 20554

RE: **WC Docket No. 12-375** (Rates for Interstate Inmate Calling Services)

Dear Madam Secretary:

The South Dakota Department of Corrections (SDDOC) has reviewed the above Notice of Proposed Rulemaking regarding Rates for Interstate Inmate Calling Services (ICS). This proposal seeks to eliminate setup fees and establish benchmark rates for interstate collect calling services. However, in reading the proposal, the discussion extends much broader to intrastate rates and also mentions caps on debit calling rates. The SDDOC has significant concerns regarding the proposal and would offer the following information and comment.

Collect calling by its nature has always been more expensive to operate because 1) an operator is required to complete a call, 2) rates are tariffed, 3) additional termination fees between telephone companies are involved, 4) additional administrative billing work is required, 5) contract agreements between carriers are involved, and 6) there is a high volume of uncollectible accounts. The unique setting of jails and prisons only adds to the cost of operation. The FCC has on a number of occasions recognized this issue in previous rulings and comments. By eliminating the setup fee and restricting the rate to a per-minute charge as proposed, the SDDOC would anticipate that our call provider would no longer provide that option. It would not be economically feasible. Losing this option would negatively impact some of the inmates and their families.

In addition, there is great diversity in correctional facilities. There are small county jails with a capacity of just 25 inmates compared to prisons that hold 5,000. The cost to provide that small jail with inmate telephone capability compared to the 5,000 capacity prison are significantly different. Service requirements are also impacted by how long an inmate will remain in custody and how far from family that he is incarcerated. Local

governmental entities need that ability to establish the type and levels of service that best fit their needs.

Security at our prisons is first and foremost for the SDDOC. When we look at an ICS, we look for the advancements in security technology. The SDDOC has never had funds to purchase, implement and maintain an inmate calling system. We do not have the expertise in house and rely on the ICS vendors to provide that technical expertise to us. Having the ability to listen to calls or review stored calls provides a wealth of information regarding gang activity and threats to staff, inmates, victims, judges, witnesses or the general public. We are able to restrict who an offender may call to maintain security. In order to get this technology, it requires the ability for the provider to recoup their cost.

In addition, it allows the SDDOC to upgrade and provide more options and better services as those opportunities present themselves. The technology is constantly changing due to the competitive nature of the business. Restrictions on rates will stifle the development of new technology by the vendors since they will have no way to recoup the cost.

In 2001 under then Governor Janklow, the SDDOC was directed to find alternatives to the collect call only option for ICS. The SDDOC pursued a debit calling option for families and friends of inmates and implemented the system in 2002. It significantly reduced the call rates to families. It also negatively impacted our commission revenue by over 50%. Since 2002, the SDDOC has worked diligently with its phone system provider(s) to lower the rates upon contract renewal. We have added features over the years to improve our system such as pin debit accounts (family members can deposit money to call only their number), the ability to deposit money using debit and credit cards in addition to money orders and call messaging to name a few. We also put out our ICS contracts for bids to increase competition and keep the calling rates down for inmates and their families. Currently, 92% of our call volume is via pin debit or debit calls. Our commission revenue has risen due to the increased volume of calls/number of minutes used even though we have continually lowered the call rates. SDDOC has not received any formal complaints from inmates or their families on inmate call rates for several years.

The SDDOC relies on its commission revenue to provide services directly impacting inmates. We budget the revenue to provide the following services to inmates:

- **legal services**
- **buy recreation equipment**
- **cover indigent commissary**
- **provide counseling**
- **provide transportation to return home**
- **and other services for the inmates**

Changes to the commission structure that negatively impact that revenue stream could negatively affect services we can provide to the inmates. With federal sequestration

and current economic times in our state, the SDDOC has no assurance that our Legislature would replace the revenue lost by this proposal with taxpayer money. Cuts to service would be our only option. It is difficult enough to convince the Legislature and the taxpayers of our state to fund the growing cost of corrections for staff, food, clothing, medical and other programs for inmates.

The SDDOC agrees with the Commission that telephone contact with loved ones is beneficial to both the inmates and their family members not only while in prison but in preparation to return home. It is also beneficial to the staff when families stay connected while an inmate is incarcerated.

In closing, we believe the proposal should not be adopted for the following reasons:

1. One size does not fit all. Service needs of jails are different from state prisons as are those of federal prisons.
2. Impacting call options by restricting rates will have an impact on the security of the institution.
3. It will negatively impact the collect call option or may eliminate it as an option depending on the rate structure imposed.
4. It will affect each jurisdiction's revenue stream negatively impacting services to the inmates.
5. It will stifle competition and development of new technology in the industry to provide more options and better service to inmates and their families.
6. Depending on the extent of the proposed rules, it could extend areas into intrastate rates which would be under the jurisdiction of the South Dakota Public Utilities Commission.

The SDDOC appreciates the opportunity to comment on the proposed rule changes. Our hope is that you will leave it to the individual jurisdictions to best serve the needs of their inmates, their families and the public at large.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dennis Kaemingk", with a stylized flourish at the end.

Dennis Kaemingk
Cabinet Secretary

C: Governor Dennis Daugaard
US Senator John Thune
US Senator Tim Johnson
US Representative Kristi Noem
South Dakota Public Utilities Commission
Association of State Correctional Administrators (ASCA)